HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.113 of 2007

Between:

Smt.Bushra Begum and others. …Appellants

And

The State of Andhra Pradesh,
represented by District Collector,
Ranga Reddy District and others. …Respondents.

:: J U D G M E N T ::

Counsel for the appellants : Sri Addepally Suryanarayana

Counsel for the respondents : Assistant Government Pleader for Revenue

5th February, 2007

Per G.S. SINGHVI, C.J.

Having failed to convince the learned Single Judge that notice dated 28-11-2006 issued by Mandal Surveyor, Bandlaguda Mandal, requiring them to attend the work of demarcation of land comprised in Survey Nos.103/4, 103/6 and 103/7 situated at Bandlaguda Village, is vitiated due to want of jurisdiction, the appellants have preferred this appeal.

The appellants claim to be the owners of land measuring Ac.4.09 guntas comprised in Survey Nos. 103/14 and 103/7 of Bandlaguda Village, Ranga Reddy District. According to them, the land was gifted to them by their father Mohd. Ismail vide gift deeds dated 11.02.1994. In the year 2006, the appellants filed suit for injunction (O.S.No.759 of 2006) by alleging that respondent Nos. 5 and 6 were seeking to trespass over their

land by describing themselves as General Power of Attorney Holders of Smt. Syeda Binte Imani Jabri and Muneef Been Imani Jabri. They also filed an application for temporary injunction (I.A.No.3889 of 2006) and succeeded in persuading the Principal District Judge, Ranga Reddy District to pass an order of injunction.

On receipt of notice dated 28.11.2006 issued by Mandal Surveyor, they filed Writ Petition No.25167 of 2006 and prayed that the officer concerned be restrained from undertaking demarcation of the land comprised in Survey Nos. 103/4, 103/6 and 103/7.

In the affidavit filed by appellant No.1 – Smt. Bushra Begum, it was averred that during the pendency of the civil suit filed by them, the Mandal Surveyor was not entitled to undertake the work of demarcation.

The learned Single Judge dismissed the writ petition by observing that the suit filed by the writ petitioners (the appellants herein) is only for injunction and the notice issued by the Mandal Surveyor for demarcation of land covered by the 3 survey numbers does not suffer from any jurisdictional infirmity. The learned Single Judge further observed that the writ petitioners can take all legally permissible objections before the concerned authority and there is no warrant for judicial interdiction at the stage of demarcation.

Shri Addepalli Suryanarayana, learned counsel for the appellants argued that the notice issued by the Mandal Surveyor is liable to be quashed because, in the absence of any dispute, the official concerned does not have the jurisdiction to undertake demarcation of the land in question. He submitted that the dispute, if any relating to the boundary of the survey numbers in question can be properly adjudicated in the pending suit and, therefore, there is no warrant for the Mandal Surveyor to undertake demarcation of the property.

We have considered the submissions of the learned counsel, but have not felt impressed. Sections 9, 10 and 11 of the Andhra Pradesh Survey and Boundaries Act, 1923 (for short, 'the Act'), which have bearing on this case read as under:

> " **9. Power of survey officer to determine and record an undisputed boundary:-** (1) The survey officer shall

have power to determine and record as undisputed any boundary in respect of which no dispute is brought to his notice.

(2) *Notice to registered holders of land affected:-* Notice of every decision of the survey officer under Section 9(1) shall be given in the prescribed manner to the registered holders of the lands the boundaries of which may be affected by the decisions.

10. Power of survey officer to determine and record a disputed boundary:- (1) Where a boundary is disputed, the survey officer, after making such inquiry as he considers necessary, shall determine the boundary and record in writing the reasons for his decison.

(2) *Notice to parties to the dispute and to registered holders of land affected:-* Notice of every decision of the survey officer under Section 10(1) shall be given in the prescribed manner to the parties to the dispute and other registered holders of the lands, the boundaries of which may be affected by the decision.

11. Appeals against orders under Section 9 or 10:- (1) Any person affected by a decision under Section 9 or 10 may appeal to the prescribed officer. The decision of the appellate authority with reasons therefore shall be recorded in writing and notice of such decision shall be given in the prescribed manner to the appeal. Any modification of the survey officer's decision, ordered by the appellate authority, shall be noted in the record prepared under Section 9 or 10 as the case may be.

(2) A copy of the order and a copy of the map of recording the boundaries as determined under Section 9, 10 or 11(1) shall be furnished to any person interested in such order or map as the case may be on his application and at his cost."

A reading of the above reproduced provisions makes it clear that under Section 9(1) of the Act, the Mandal Surveyor has the power to determine and record as undisputed any boundary in respect of which no dispute is brought to his notice. In terms of sub-section (2), a notice is required to be given of the decision of the survey officer to the registered holders of land the boundaries of which may be affected by such decision. Section 10(1) empowers the survey officer to determine the boundary in case there is dispute regarding the boundary. This power

has to be exercised by the survey officer after making such inquiry, as he considers necessary. The officer is also required to record reasons in support of his decision. Sub-section (2) of Section 10 casts a duty on the survey officer to give notice of his decision to the parties to the dispute and other registered holders of the land, the boundaries of which may be affected by such decision. Section 11(1) lays down that any person affected by a decision under Section 9 or 10 may appeal to the prescribed officer. The Appellate Authority is required to render its decision by recording reasons in writing and communicating the same to the affected persons.

In our opinion, the scheme of Sections 9, 10 and 11 comprehensively deals with the issue regarding undisputed as well as disputed boundaries and any person feeling aggrieved by the decision of the survey officer can avail remedy by filing appeal under Section 11. It is neither the pleaded case of the appellants nor it has been argued by their counsel that in furtherance of notice dated 28.11.2006, the Mandal Surveyor has determined the boundaries of the land in question and his decision has adversely affected their right. Their contention is that during the pendency of the suit filed by them, the Mandal Surveyor cannot undertake demarcation of the disputed survey numbers. In our opinion, the learned Single Judge rightly declined to entertain the writ petition by declaring it to be premature because no action has been taken by the Mandal Surveyor and no order has been passed by the official concerned adversely affecting the rights or interest of the appellants in relation to the land in dispute. If the appellants feel that the Mandal Surveyor is not entitled to undertake demarcation, then, instead of filing writ petition under Article 226 of the Constitution of India, they should have filed their objections and requested the Mandal Surveyor to decide the same. If the Mandal Surveyor was to dismiss their objections and determine the boundary adversely affecting their right over the land comprised in Survey Nos. 103/14 and 103/7, the appellants could have filed an appeal under Section 11. they could seek intervention of the Court only if the decision of the Appellate Authority was also adverse to them.

In the premise aforesaid, we hold that the writ petition filed by the appellants was not only premature, but was wholly misconceived and the learned Single Judge did not commit any error by refusing to entertain their prayer.

With the above observations, the appeal is dismissed.

As a sequel to dismissal of the main appeal, W.A.M.P.No.182 of 2007 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, C.J.

5th February, 2007

C.V.NAGARJUNA REDDY, J.

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